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<b>From: Jennifer Pilcher Legal Assistant to Wayne Bailey</b>	<b>No. of Pages Including Cover Sheet: 32</b>
<b>Enclosed herewith:</b> <ul style="list-style-type: none"><li>• Transmittal document; and</li><li>• Appeal Brief.</li></ul>	
<b>Re: Application Serial No. 09/773,189 Attorney Docket No. AUS920000950US1</b>	
<b>Date: Friday, December 16, 2005</b>	
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DEC 16 2005

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Dutta et al.**Serial No.: **09/773,189**Filed: **January 31, 2001**For: **Apparatus and Methods for  
Filtering Content Based on  
Accessibility to a User**

35525

PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER§  
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§Group Art Unit: **2157**Examiner: **Gold, Avi M.**Attorney Docket No.: **AUS920000950US1**Certificate of Transmission Under 37 C.F.R. § 1.8(a)I hereby certify this correspondence is being transmitted via  
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- Appeal Brief (37 C.F.R. 41.37).

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CENTRAL FAX CENTER****DEC 16 2005****Docket No. AUS920000950US1****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re application of: **Dutta et al.**Serial No. **09/773,189**Filed: **January 31, 2001**For: **Apparatus and Methods for  
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§Group Art Unit: **2157**Examiner: **Gold, Avi M.****Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450****Certificate of Transmission Under 37 C.F.R. § 1.8(a)**

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By:

  
Jennifer Filcher**APPEAL BRIEF (37 C.F.R. 41.37)**

This brief is in furtherance of the Notice of Appeal, filed in this case on October 17, 2005.

The fees required under § 41.20(B)(2), and any required petition for extension of time for filing this brief and fees therefore, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

(Appeal Brief Page 1 of 30)  
Dutta et al. - 09/773,189

**REAL PARTY IN INTEREST**

The real party in interest in this appeal is the following party: International Business Machines Corporation of Armonk, New York.

**RELATED APPEALS AND INTERFERENCES**

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no such appeals or interferences.

**STATUS OF CLAIMS****A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 1-47

**B. STATUS OF ALL THE CLAIMS IN APPLICATION**

1. Claims canceled: 1, 2, 4, 7, 8, 16, 17, 19, 22, 23, 31, 32, 34, 37 and 38
2. Claims withdrawn from consideration but not canceled: none
3. Claims pending: 3, 5, 6, 9-15, 18, 20, 21, 24-30, 33, 35, 36 and 39-47
4. Claims allowed: none
5. Claims rejected: 3, 5, 6, 9-15, 18, 20, 21, 24-30, 33, 35, 36 and 39-47
6. Claims objected to: none

**C. CLAIMS ON APPEAL**

The claims on appeal are: 3, 5, 6, 9-15, 18, 20, 21, 24-30, 33, 35, 36 and 39-47

**STATUS OF AMENDMENTS**

No amendment after final was filed for this case.

### SUMMARY OF CLAIMED SUBJECT MATTER

#### **A. CLAIM 3 - INDEPENDENT**

Claim 3 is generally directed to a method for filtering content based upon the accessibility of the content to a user, and is particularly useful in an environment where content needs to be filtered based upon special-needs of a user for accessing such content, such as a handicapped or disabled user. Specifically, Claim 3 is directed to a method of providing content to a client. The content is retrieved, and such retrieval of content includes performing a search of content providers. An evaluation of the content for accessibility by a user is then performed, including determining an accessibility level of the content based on accessibility criteria that is determined *by analyzing how the content will be presented by the client*. A determination is then made as to whether this determined accessibility level of the content meets an accessibility requirement for the user. If the determined accessibility level of the content meets the accessibility requirement for the user, the content is provided to the user. If the determined accessibility level of the content does not meet the accessibility requirement for the user, the client is provided an indication that the content does not meet accessibility requirements (Specification page 11, line 19 – page 19, line 20; FIG 4, all blocks; Specification page 20, line 5 – page 22- line 8; FIG 5, all blocks).

#### **B. CLAIM 10 - INDEPENDENT**

Claim 10 is directed to a method of providing content to a client. The content is retrieved, and an evaluation of the content for accessibility by a user is performed by determining how the content will be presented to the user. The content is provided to the client if a result of the evaluation meets an accessibility requirement for the user. The method is implemented on a proxy server, where such the proxy server provides the content to the client in its original form as retrieved without subsequent modification and the content is presented to the user in its original form as specified by the content as retrieved (Specification page 11, line 19 – page 19, line 20; FIG 4, all blocks; Specification page 20, line 5 – page 22- line 8; FIG 5, all blocks).



**C. CLAIM 14 - INDEPENDENT**

Claim 14 is directed to a method of providing content to a client. The content is retrieved, and an evaluation of the content for accessibility by a user is performed by determining how the content will be presented to the user. The content is provided to the user if a result of the evaluation meets an accessibility requirement for the user. If the result of the evaluation does not meet the accessibility requirement for the user, the content is modified such that the content meets the accessibility requirement for the user, where such modifying of the content includes changing values for presentation tags in the content based on one of a rule set and an algorithm such that the content, when presented to the user, meets the accessibility requirement for the user. The presentation tags describe how particular content is to be presented (Specification page 11, line 19 – page 19, line 20; FIG 4, all blocks; Specification page 20, line 5 – page 22- line 8; FIG 5, all blocks; Specification page 23, lines 23 – page 25, line 17; FIG 7, all blocks). Thus, per the features of Claim 14, the amount of content made available to the user is increased because of such modification using the presentation tags (Specification page 25, lines 18-25).

**D. CLAIM 15 - INDEPENDENT**

Claim 15 is directed to a method of providing content to a client. The content is retrieved, and an evaluation of the content for accessibility by a user is performed by determining how the content will be presented to the user. Performing such evaluation of the content for accessibility by the user includes logging elements of the content that do not meet accessibility criteria. The content is provided to the user if a result of the evaluation meets an accessibility requirement for the user. If the result of the evaluation does not meet the accessibility requirement for the user, the content is modified such that the content meets the accessibility requirement for the user, including modifying the logged elements and then re-evaluating the content to confirm the accessibility requirement for the user has been met by such content modification (Specification page 11, line 19 – page 19, line 20; FIG 4, all blocks; Specification page 20, line 5 – page 22- line 8; FIG 5, all blocks; Specification page 23, lines 23 – page 25, line 17; FIG 7, all blocks). Thus, per the features of Claim 15, the amount of content made available to the user is increased because of such modification and re-evaluation (Specification page 25, lines 18-25).

**E. CLAIM 18 - INDEPENDENT AND MEANS-PLUS-FUNCTION**

Claim 18 is directed to an apparatus claim of similar scope to Claim 3, and the summary of Claim 3 given above is equally applicable to Claim 18, and is thus hereby incorporated by reference in order to provide the summary of Claim 18.

In the preferred embodiment, the structure, material or acts corresponding to the means for retrieving, means for performing, means for determining, means for providing the content, and means for providing an indication is described at Specification page 7, line 16 – page 8, line 28 and shown by element 106 in Figure 1A and element 200 in Figure 2.

**F. CLAIM 25 - INDEPENDENT AND MEANS-PLUS-FUNCTION**

Claim 25 is directed to an apparatus claim of similar scope to Claim 10, and the summary of Claim 10 given above is equally applicable to Claim 25, and is thus hereby incorporated by reference in order to provide the summary of Claim 25.

In the preferred embodiment, the structure, material or acts corresponding to the means for retrieving, means for performing, and means for providing is described at Specification page 7, line 16 – page 8, line 28 and shown by element 106 in Figure 1A and element 200 in Figure 2.

**G. CLAIM 29 - INDEPENDENT AND MEANS-PLUS-FUNCTION**

Claim 29 is directed to an apparatus claim of similar scope to Claim 14, and the summary of Claim 14 given above is equally applicable to Claim 29, and is thus hereby incorporated by reference in order to provide the summary of Claim 29.

In the preferred embodiment, the structure, material or acts corresponding to the means for retrieving, means for performing, means for providing, and means for modifying is described at Specification page 7, line 16 – page 8, line 28 and shown by element 106 in Figure 1A and element 200 in Figure 2.

**H. CLAIM 30 - INDEPENDENT AND MEANS-PLUS-FUNCTION**

Claim 30 is directed to an apparatus claim of similar scope to Claim 15, and the summary of Claim 15 given above is equally applicable to Claim 30, and is thus hereby incorporated by reference in order to provide the summary of Claim 30.

In the preferred embodiment, the structure, material or acts corresponding to the means for retrieving, means for performing, means for providing, and means for modifying is described at Specification page 7, line 16 – page 8, line 28 and shown by element 106 in Figure 1A and element 200 in Figure 2.

**I. CLAIM 33 - INDEPENDENT**

Claim 33 is directed to a computer program product claim of similar scope to Claim 3, and the summary of Claim 3 given above is equally applicable to Claim 33, and is thus hereby incorporated by reference in order to provide the summary of Claim 33.

**J. CLAIM 40 - INDEPENDENT**

Claim 40 is directed to a computer program product claim of similar scope to Claim 10, and the summary of Claim 10 given above is equally applicable to Claim 40, and is thus hereby incorporated by reference in order to provide the summary of Claim 40.

**K. CLAIM 44 - INDEPENDENT**

Claim 44 is directed to a computer program product claim of similar scope to Claim 14, and the summary of Claim 14 given above is equally applicable to Claim 44, and is thus hereby incorporated by reference in order to provide the summary of Claim 44.

**L. CLAIM 45 - INDEPENDENT**

Claim 45 is directed to a computer program product claim of similar scope to Claim 15, and the summary of Claim 15 given above is equally applicable to Claim 45, and is thus hereby incorporated by reference in order to provide the summary of Claim 45.

**M. CLAIM 46 - INDEPENDENT AND MEANS-PLUS-FUNCTION**

Claim 46 is directed to a proxy server on a network that facilitates communication between a search engine and a user. The proxy server includes (i) means for receiving a search request from the user; (ii) means for forwarding the search request to the search engine; (iii) means for receiving search results of the search request from the search engine; (iv) means for performing an evaluation of content pertaining to the search results for accessibility by the user

by analyzing how the content is specified to be presented to the user; (v) means for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and (vi) means for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility requirement for the user. The use of a proxy server is particularly advantageous in providing an ability to pre-filter content for accessibility determination purposes prior to selectively forwarding such content to a client (Specification page 6, lines 10-22).

In the preferred embodiment, the structure, material or acts corresponding to the means for receiving, means for forwarding, means for receiving, means for performing, means for providing and means for modifying is described at Specification page 7, line 16 – page 8, line 28 and shown by element 106 in Figure 1A and element 200 in Figure 2.

**GROUND OF REJECTION TO BE REVIEWED ON APPEAL**

**A. GROUND OF REJECTION 1 (Claims 3, 6, 9, 11-13, 18, 20, 21, 24, 26-28, 33, 35, 36, 39, 41-43, 46 and 47)**

Claims 3, 6, 9, 11-13, 18, 20, 21, 24, 26-28, 33, 35, 36, 39, 41-43, 46 and 47 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Nehab et al.

**B. GROUND OF REJECTION 2 (Claims 5, 20 and 35)**

Claims 5, 20 and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nehab and further in view of Rowen et al., "Evaluation Web Resources for Disability Access".

**C. GROUND OF REJECTION 3 (Claims 10, 14, 15, 25, 29, 30, 40, 44 and 45)**

Claims 10, 14, 15, 25, 29, 30, 40, 44 and 45 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nehab and further in view of Kennel et al., "WAB: World Wide Web Access for blind and visually impaired computer users.

## ARGUMENT

### **A. GROUND OF REJECTION 1 (Claims 3, 6, 9, 11-13, 18, 20, 21, 24, 26-28, 33, 35, 36, 39, 41-43, 46 and 47)**

#### **A.1. Claims 3, 6, 9, 11-13, 18, 20, 21, 24, 26-28, 33, 35, 36, 39 and 41-43**

Claim 3 is directed to a method for pre-filtering content based upon how such content will be presented by a client. Two types of determinations are made in the content filtering methodology. First, a determination is made as to an accessibility level of the content based on accessibility criteria. Then, a determination is made as to whether the determined accessibility level of the content meets an accessibility requirement for the user. Thus, there is both an accessibility level of the content, and an accessibility requirement for a user. The accessibility level of the content is determined, and this determined accessibility level is then used to determine if the content meets an accessibility requirement for a user. Then, one of two things is provided to the client based these two determinations – either the content is provided to the client or an indication is provided to the client. The content is provided to the client if the determined accessibility level of the content meets the accessibility requirement for the user. An indication is provided to the client (indicating that the content does not meet accessibility requirements) if the determined accessibility level of the content does not meet the accessibility requirement for the user. The cited reference does not teach the two-phased determination (determining an accessibility level of the content, and then determining whether this determined accessibility level meets an accessibility requirement for a user) followed by a client being provided one of two things based upon this two-phased determination – either the content if the accessibility requirement is met or the indication if the accessibility requirement is not met. Thus, the reference does not teach this conglomeration of operational steps that synergistically co-act together. For example, the cited reference does not teach any type of failure indication such as the claimed step of providing an indication to the client that the content does not meet accessibility requirements if the determined accessibility level of the content does not meet the accessibility requirement for the user. Rather, the cited reference merely teaches that content is provided based upon a personalized data retrieval mechanism. Such selective retrieval of content

does not provide any type of *indication of failure* of content to meet accessibility criteria. As a further example, the cited reference does not teach any type of accessibility level being determined, and then using this determined accessibility level of the content in a subsequent determination step that determines whether this determined accessibility level meets an accessibility requirement for the user. While the cited reference mentions content analysis, this content analysis is with respect to using specified keyword criteria in such analysis (col. 8, lines 51-52), where articles may be ranked based on the occurrence of such keywords. Such ranking is not based on an accessibility level of the content, as claimed, but rather is based on the particular words in the content. Quite simply, this particular aspect of Claim 3 (accessibility level determination) is directed to ranking content based upon *how* the content will be presented, whereas the reference teaches a ranking based on *what* the actual content is. *The Examiner expressly acknowledges, on page 9 of the most recent office action dated 7/26/2005 (1<sup>st</sup> full paragraph), that Nehab fails to teach 'determining how the content will be presented' and yet this missing feature is expressly recited in Claim 3.* Thus, it is urged that Claim 3 is not anticipated by the cited reference<sup>1</sup>, and thus has been erroneously rejected under 35 U.S.C. § 102, for the many reasons articulated above.

#### A.2. Claims 46 and 47

With respect to Claim 46 (and dependent Claim 47), Applicants urge that the cited reference does not teach any type of proxy server, and thus does not teach a proxy server having the specific elements recited in Claim 46. Applicants further traverse the rejection of Claim 46 for similar reasons to those given above with respect to Claim 3.

### B. GROUND OF REJECTION 2 (Claims 5, 20 and 35)

#### B.1. Claims 5, 20 and 35

Appellants initially show error in the rejection of Claim 5 (and similarly for Claims 20 and 35), as the Examiner has failed to properly establish a *prima facie* showing of obviousness

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<sup>1</sup> For a prior art reference to anticipate in terms of 35 U.S.C. 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

with respect to such claim due to the missing features described above with respect to Claim 1 (of which Claim 5 depends upon)<sup>2</sup>.

Appellants further urge that Claim 5 (and similarly for Claims 20 and 35) has been erroneously rejected under 35 USC 103, as (1) the cited art is non-analogous, (2) there is no suggestion in the references for the combination, and (3) the Examiner is using improper hindsight analysis by using Applicants' claims as a blueprint to selectively combine teachings from non-analogous art in an attempt to establish obviousness, as will now be shown in detail.

As to item (1), if a cited reference is not analogous art, it has no bearing on the obviousness of the patent claim. *Jurgens v. McKasy*, 927 F.2d 1552, 18 USPQ2d 1031 (Fed. Cir. 1991). Applicants urge that the cited Rowan reference is non-analogous art with respect to the cited Nehab reference. Rowan is directed to evaluating web sites for accessibility by persons with special needs, whereas Nehab is directed to providing a customized document such as newspaper to a reader. Thus, a person of ordinary skill in the art would not have been motivated to combine such disparate teachings.

As to item (2), "[w]hen determining the patentability of a claimed invention which combines two known elements, 'the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" *See In re Beattie*, 974 F.2d 1309, 1311-12, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992) (quoting *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984)). Quite simply, there is no suggestion of any desire to combine the teachings of these cited references, due at least in part to the disparate teachings of such references.

As to item (3), as stated by the Federal Circuit, "virtually all [inventions] are combinations of old elements." *Environmental Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 698, 218 USPQ 865, 870 (Fed. Cir. 1983); *see also Richdel, Inc. v. Sunspool Corp.*, 714 F.2d

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<sup>2</sup> In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Only if that burden is met, does the burden of coming forward with evidence or argument shift to the applicant. *Id.* To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03 (emphasis added by Appellants). *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974). If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).



1573, 1579-80, 219 USPQ 8, 12 (Fed. Cir. 1983) ("Most, if not all, inventions are combinations and mostly of old elements."). Therefore an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be "an illogical and inappropriate process by which to determine patentability." *Sensonics, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570, 38 USPQ2d 1551, 1554 (Fed. Cir. 1996). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed. *In re Rouffet*, 149 F.3d 1350, 47 USPQ 2d 1453 (Fed. Cir. 1998). [w]hen determining the patentability of a claimed invention which combines two known elements, 'the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination.'" See *In re Beattie*, 974 F.2d 1309, 1311-12, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992) (quoting *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 488 (Fed. Cir. 1984)). In rejecting Claim 5, the Examiner states "It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Nchab in view of Rowan to use Bobby. One would have been motivated to do so because it would allow for World Wide Web resources to be accessible to people with disabilities". The Examiner's reasoning in making the combination fails to meet the legal requirements as specified in *In re Rouffet*, supra., as the teachings of Nehab are not directed to, or concerned about, making web resources accessible to people with disabilities.

Additionally regarding item (3), it is error to reconstruct the patentee's claimed invention from the prior art by using the patentee's claims as a "blueprint". When prior art references require selective combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight obtained from the invention itself.

*Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 227 USPQ 543 (Fed. Cir. 1985). These

claims are therefore shown to have been erroneously rejected using improper hindsight analysis, as the only reason for such combination must be coming from Applicants' own specification and claims.

Therefore, the rejection of Claims 5, 20 and 35 under 35 U.S.C. § 103 is shown to be in error.

**C. GROUND OF REJECTION 3 (Claims 10, 14, 15, 25, 29, 30, 40, 44 and 45)**

**C.1. Claims 10, 25 and 40**

Appellants urge that Claim 10 (and similarly for Claims 25 and 40) has been erroneously rejected under 35 USC 103, as none of the cited references teach or suggest the claimed feature of "providing the content to the client if a result of the evaluation meets an accessibility requirement for the user" (emphasis added by Appellants). As can be seen, the content is conditionally provided to the client, and the condition being used to determine whether to provide the content is "if a result of the evaluation meets an accessibility requirement for the user. 'The evaluation' (which is a part of this conditional determination) is defined by Claim 10 to be "performing an evaluation of the content for accessibility by a user by determining how the content will be presented to the user". None of the cited references teach or suggest (i) conditionally providing content to a client by determining how the content will be presented to the user or (ii) whether this determination of *how* the content will be presented to a user meets an accessibility requirement for the user. The two passages (Nehab col. 1, lines 20-23 and Nehab col. 1, lines 13-34) cited by the Examiner in rejecting both of these claimed steps makes no mention of any determination as to *how* the content will be presented, nor providing content to a user *conditionally* based upon whether the 'how the content will be presented to the user' meets an accessibility requirement for such user. Rather, these cited passages describe retrieval of data *based upon a personalized data retrieval structure*. Therefore, a prima facie case of obviousness has not been established by the Examiner with respect to Claim 10, and thus Claim 10 has been erroneously rejected under 35 U.S.C. § 103.

**C.2. Claim 14, 29 and 44**

With respect to Claim 14 (and similarly for Claims 29 and 44), it is respectfully urged that none of the cited references teach or suggest the claimed feature of "modifying the content


such that the content meets the accessibility requirement for the user, wherein modifying the content includes *changing values for tags in the content* based on one of a rule set and an algorithm such that the content meets the accessibility requirement for the user” (emphasis added by Applicants). In rejecting Claim 14, the Examiner states that Nehab teaches this claimed feature at col. 4, lines 13-25 and col. 2, lines 58-64 in that Nehab teaches flattening the extracted data tree and formatting the linear document. Applicants urge that while this cited passage may teach formatting a hypermedia document, the features of Claim 14 go beyond such document formatting, and include a specific step of *changing values of tags in the content itself* such that the content meets the user accessibility requirements. This changing of values for tags in the content to meet the user accessibility requirements is conditioned upon a determination that the content does not meet such requirements. Per the Examiner’s interpretation of the Nehab teachings, the content is not provided at all if it does not meet the personalized data retrieval criteria, or in other words it is merely excluded (col. 12, lines 5-21). There is no teaching whatsoever as to *modifying non-conforming content* such that it is conforming, based upon a determination of such non-conformance. Therefore, it is urged that Claim 14 is not obvious in view of the cited references, and thus has been erroneously rejected, as all the limitations recited in the claims are not taught or suggested by the cited references.

### C.3. Claim 15, 30 and 45

With respect to Claim 15 (and similarly for Claims 30 and 45), Applicants urge that none of the cited references teach or suggest the claimed feature of “modifying the content such that the content meets the accessibility requirement for the user, wherein performing the evaluation of the content for accessibility by the user includes *logging elements of the content that do not meet accessibility criteria*, and wherein modifying the content includes *modifying logged elements and then re-evaluating the content* to confirm the accessibility requirement for the user has been met by such content modification” (emphasis added by Applicants). As can be seen, this feature of Claim 15 is directed to *logging* of non-complying elements, *modifying* such logged elements, and then *re-evaluating* the content to confirm that the accessibility requirements have been met by such modification. In rejecting this aspect of Claim 15, the Examiner states that Nehab teaches this claimed feature at col. 4, lines 13-25, col. 2, lines 58-64 and col. 4, lines 35-39 in that Nehab discloses a formatted document processed again. Applicants urge error in such assertion, as none

of these cited passages teach two evaluations being performed with respect to user accessibility requirements, and thus there is no teaching of re-evaluating the content to confirm the accessibility requirement for the user has been met by such content modification. While the passage cited at col. 2 alludes to two steps being performed as a part of a single format operation – retrieving data from a hypermedia document into an extracted data tree (with the data retrieved being based on a structure of the hypermedia document, and not being based on any type of user criteria, as claimed), and flattening the data tree into a linear document for formatting such document – there is no user accessibility criteria (such as the claimed accessibility requirement for a user) used in any part of this process. Thus, this passage does not teach any type of content re-evaluation to confirm the accessibility requirement for the user has been met by any type of content modification. The passage cited at col. 4, lines 35-39 merely describes document formatting user pre-defined formatting settings, and is similarly deficient in any type of dual-evaluation processing with respect to accessibility requirements of a user – one being done before content modification and the other being done after content modification. Therefore, it is urged that Claim 15 is not obvious in view of the cited references, and thus has been erroneously rejected, as all the limitations recited in the claims are not taught or suggested by the cited references.

In conclusion, Appellants have shown significant error in the Examiner's rejection of all pending claims, and respectfully requests that the Board reverse the rejection of all such claims.

  
\_\_\_\_\_  
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### CLAIMS APPENDIX

The text of the claims involved in the appeal are:

3. A method of providing content to a client, comprising:  
retrieving the content, wherein retrieving the content includes performing a search of content providers;  
performing an evaluation of the content for accessibility by a user, wherein performing an evaluation of the content for accessibility by a user includes determining an accessibility level of the content based on accessibility criteria that is determined by analyzing how the content will be presented by the client;  
determining whether the determined accessibility level of the content meets an accessibility requirement for the user;  
providing the content to the client if the determined accessibility level of the content meets the accessibility requirement for the user; and  
providing an indication to the client that the content does not meet accessibility requirements if the determined accessibility level of the content does not meet the accessibility requirement for the user.
5. The method of claim 3, wherein the accessibility criteria are established based on standardized handicap accessibility guidelines.
6. The method of claim 3, wherein performing an evaluation of the content for accessibility by a user includes using an evaluation tool to perform the evaluation.

9. The method of claim 3, wherein the accessibility requirement for the user is obtained from a user profile.
10. A method of providing content to a client, comprising:  
retrieving the content;  
performing an evaluation of the content for accessibility by a user by determining how the content will be presented to the user; and  
providing the content to the client if a result of the evaluation meets an accessibility requirement for the user, wherein the method is implemented on a proxy server and wherein the proxy server provides the content to the client in its original form as retrieved without subsequent modification and the content is presented to the user in its original form as specified by the content as retrieved.
11. The method of claim 3, wherein the method is implemented on the client.
12. The method of claim 3, wherein the content is at least one Web page.
13. The method of claim 3, further comprising modifying the content such that the content meets the accessibility requirement for the user.
14. A method of providing content to a user, comprising:  
retrieving the content;

performing an evaluation of the content for accessibility by the user by determining how the content will be presented to the user;

providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

if the result of the evaluation does not meet the accessibility requirement for the user, modifying the content such that the content meets the accessibility requirement for the user, wherein modifying the content includes changing values for presentation tags in the content based on one of a rule set and an algorithm such that the content, when presented to the user, meets the accessibility requirement for the user, wherein the presentation tags describe how particular content is to be presented.

15. A method of providing content to a user, comprising:

retrieving the content;

performing an evaluation of the content for accessibility by the user by determining how the content will be presented to the user;

providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

if the result of the evaluation does not meet the accessibility requirement for the user, modifying the content such that the content meets the accessibility requirement for the user, wherein performing the evaluation of the content for accessibility by the user includes logging elements of the content that do not meet accessibility criteria, and wherein modifying the content includes modifying logged elements and then re-evaluating the content to confirm the accessibility requirement for the user has been met by such content modification.

18. An apparatus of providing content to a client, comprising:

means for retrieving the content, wherein the means for retrieving the content includes means for performing a search of content providers, wherein the means for performing an evaluation of the content for accessibility by a user includes means for determining an accessibility level of the content based on accessibility criteria that is determined by analyzing how the content will be presented by the client;

means for performing an evaluation of the content for accessibility by a user;

means for determining whether the determined accessibility level of the content meets an accessibility requirement for the user;

means for providing the content to the client if the determined accessibility level of the content meets the accessibility requirement for the user; and

means for providing an indication to the client that the content does not meet accessibility requirements if the result of the evaluation is that the content does not meet the accessibility requirement for the user.

20. The apparatus of claim 18, wherein the accessibility criteria are established based on standardized handicap accessibility guidelines.

21. The apparatus of claim 18, wherein the means for performing an evaluation of the content for accessibility by a user includes means for using an evaluation tool to perform the evaluation.

24. The apparatus of claim 18, wherein the accessibility requirement for the user is obtained from a user profile.



25. An apparatus of providing content to a client, comprising:
- means for retrieving the content, wherein the means for retrieving the content includes
  - means for performing a search of content providers;
  - means for performing an evaluation of the content for accessibility by a user by
  - determining how the content will be presented to the user; and
  - means for providing the content to the client if a result of the evaluation meets an
  - accessibility requirement for the user, wherein the apparatus is associated with a proxy server and
  - wherein the apparatus provides the content to the client in its original form as retrieved without
  - subsequent modification and the content is presented to the user in its original form as specified
  - by the content as retrieved.
26. The apparatus of claim 18, wherein the apparatus is associated with the client.
27. The apparatus of claim 18, wherein the content is at least one Web page.
28. The apparatus of claim 18, further comprising means for modifying the content such that the content meets the accessibility requirement for the user.
29. An apparatus of providing content to a user, comprising:
- means for retrieving the content;
  - means for performing an evaluation of the content for accessibility by the user by
  - determining how the content will be presented to the user;

means for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

means for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility requirement for the user, wherein the means for modifying the content includes means for changing values for presentation tags in the content based on one of a rule set and an algorithm such that the content, when presented to the user, meets the accessibility requirement for the user, wherein the presentation tags describe how particular content is to be presented.

30. An apparatus of providing content to a user, comprising:

means for retrieving the content;

means for performing an evaluation of the content for accessibility by the user by determining how the content will be presented to the user;

means for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

means for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility requirement for the user, wherein the means for performing the evaluation of the content for accessibility by the user includes means for logging elements of the content that do not meet accessibility criteria, and wherein the means for modifying the content includes means for modifying logged elements and then re-evaluating the content to confirm the accessibility requirement for the user has been met by such content modification.

33. A computer program product in a computer readable medium for providing content to a client, comprising:

first instructions for retrieving the content, wherein the first instructions include instructions for performing a search of content providers;

second instructions for performing an evaluation of the content for accessibility by a user, wherein the second instructions include instructions for determining an accessibility level of the content based on accessibility criteria that is determined by analyzing how the content will be presented by the client;

third instructions for determining whether the determined accessibility level of the content meets an accessibility requirement for the user;

fourth instructions for providing the content to the client if the determined accessibility level of the content meets the accessibility requirement for the user; and

fifth instructions for providing an indication to the client that the content does not meet accessibility requirements if a result of the second instructions is that the content does not meet the accessibility requirement for the user.

35. The computer program product of claim 33, wherein the accessibility criteria are established based on standardized handicap accessibility guidelines.

36. The computer program product of claim 33, wherein the second instructions include instructions for using an evaluation tool to perform the evaluation.

39. The computer program product of claim 33, wherein the accessibility requirement for the user is obtained from a user profile.

40. A computer program product in a computer readable medium for providing content to a client, comprising:

first instructions for retrieving the content;

second instructions for performing an evaluation of the content for accessibility by a user by determining how the content will be presented to the user; and

third instructions for providing the content to the client if a result of the evaluation meets an accessibility requirement for the user, wherein the computer program product is executed on a proxy server and wherein the computer program product provides the content to the client in its original form as retrieved without subsequent modification and the content is presented to the user in its original form as specified by the content as retrieved.

41. The computer program product of claim 33, wherein the computer program product is executed on the client.

42. The computer program product of claim 33, wherein the content is at least one Web page.

43. The computer program product of claim 33, further comprising fourth instructions for modifying the content such that the content meets the accessibility requirement for the user.

44. A computer program product in a computer readable medium for providing content to a user, comprising:

first instructions for retrieving the content;

second instructions for performing an evaluation of the content for accessibility by the user by determining how the content will be presented to the user;

third instructions for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

fourth instructions for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility requirement for the user, wherein the fourth instructions include instructions for changing values for presentation tags in the content based on one of a rule set and an algorithm such that the content, when presented to the user, meets the accessibility requirement for the user, wherein the presentation tags describe how particular content is to be presented.

45. A computer program product in a computer readable medium for providing content to a user, comprising:

first instructions for retrieving the content;

second instructions for performing an evaluation of the content for accessibility by the user by determining how the content will be presented to the user;

third instructions for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

fourth instructions for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility

requirement for the user, wherein the second instructions include instructions for logging elements of the content that do not meet accessibility criteria, and wherein the fourth instructions include instructions for modifying logged elements and then re-evaluating the content to confirm the accessibility requirement for the user has been met by such content modification.

46. A proxy server on a network that facilitates communication between a search engine and a user, comprising:

means for receiving a search request from the user;

means for forwarding the search request to the search engine;

means for receiving search results of the search request from the search engine;

means for performing an evaluation of content pertaining to the search results for accessibility by the user by analyzing how the content is specified to be presented to the user;

means for providing the content to the user if a result of the evaluation meets an accessibility requirement for the user; and

means for modifying the content if the result of the evaluation does not meet the accessibility requirement for the user such that the content meets the accessibility requirement for the user.

47. The proxy server of Claim 46, wherein the means for modifying the content comprises means for changing values for presentation tags in the content based on one of a rule set and an algorithm such that the content, when presented to the user, meets the accessibility requirement for the user, wherein the presentation tags describe how particular portions of the content are to be presented.

**EVIDENCE APPENDIX**

There is no evidence to be presented.

**RELATED PROCEEDINGS APPENDIX**

There are no related proceedings.